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10/595,243	03/29/2006	George Brock-Fisher	US030422US	5442

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EXAMINER	
PHAN, JOSEPH T	
ART UNIT	PAPER NUMBER
2614	

NOTIFICATION DATE	DELIVERY MODE
09/30/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/595,243	BROCK-FISHER, GEORGE	
	Examiner	Art Unit	
	JOSEPH T. PHAN	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07/02/2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *29 March 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 07/02/2010, with respect to the rejection of claims 1-22 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn and prosecution is reopened after filing of the appeal brief. However, upon further consideration, new grounds of rejection is made in view of 35 USC 112 and 35 USC 103 below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3-10, and 12-17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, a medical monitor apparatus was claimed. However, the claim further recites detail limitation of a portable phone. This leads to confusion because it is not clear whether the phone is included in the claimed apparatus. Claims 3-5 are dependent claims that further narrow the portable phone which is not part of the apparatus.
Appropriate clarification and/or correction is required.

Claim 6 line 7 recites "the phone" which is unclear which phone it is referring to as line 4 recites "a portable phone" and line 8 recites 'a phone'. This confusion makes the claim indefinite.

Claims 7 and 9-10 lines 1-3 recites "the phone" which is unclear which phone it is referring to from claim 6 and makes the claim indefinite.

Claims 8 and 17 line 2 recites "the device" which lacks antecedent basis as there is no recitation of 'a device' in claim 6. It is unclear and confusion as the 'apparatus' in line 2, 'portable phone' in line 4, and 'a phone' in line 6 are devices and makes the claim indefinite.

Claims 1, 12, and 15 lines 6-7 recites "the phone" and "said phone" which is unclear if this phone is referring to 'a wireless transmitter' in line 3, 'a portable phone' in line 5, or 'a phone' in line 7.

Claims 3-5, 13-14, and 16 lines 1-2 recites "the phone" which is unclear which phone it is referring to from the corresponding independent claim and makes the claim indefinite.

Claim 12 line 9 recites "..until one of the..." which is unclear and conSimonsing as to whether 'until' is referring to 'making, by said phone, an emergency call' in line 7 or 'dialing phone numbers stored in the phone' in line 8 because the claim recites only one call.

Claim 15 line 8 recites "..answers the call on the call when the call is answered..." which is unclear and conSimonsing because of grammatical issues.

Appropriate clarification and/or correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-22rejected under 35 U.S.C. 103(a) as being unpatentable over Simon., Pub. No. US 20030176798 A1 in view of Hosack, Patent #6,496,111.

Regarding claim 1, Simon teaches a portable medical monitoring apparatus comprising: a portable monitoring device(Fig2/4) for medically monitoring to detect an occurrence of a predefined abnormal condition(para 0030-0031); and

a wireless transmitter attached to the device(412 Fig.4 para 0031-0034) and configured for automatically, wirelessly and directly communicating the occurrence to a portable phone (B Fig.1 and para 0052) upon detection by the device of said occurrence, the phone being configured to make an emergency call upon receiving the communication by dialing a phone number (para 0054-0056).

Simon does not expressly disclose dialing a phone number of a phone belonging to a designated individual.

In the same field of endeavor, Hosack discloses multiple phone numbers, phone numbers belonging to a designated individual (col.2 lines 21-25, col.5 lines 1-9, 58-67).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Simon to include dialing a phone number belonging to a designated individual as taught by Hosack.

One of ordinary skill in the art would have been motivated to do so as dialing a phone number of a phone belonging to a designated individual is very old and well known in the art. A

911 call is dialing to a specific destination and dialing a specific individual from your multiple contacts would provide more flexibility and options for the user. Furthermore both Simon and Hosack are in the same field of endeavor of making an emergency call based on a detected occurrence and would be easily combinable based on similar incorporated technologies(cellular network, bluetooth wireless capabilities, GPS, etc).

Regarding claim 2, Simon in view of Hosack teaches the apparatus of claim 1, wherein the monitoring is of a subject, the device being attached to the subject during the monitoring(Fig.1 and para 0013 and 0038).

Regarding claim 3, Simon in view of Hosack teaches the apparatus of claim 1, wherein the phone comprises a Bluetooth device, said apparatus further comprising a Bluetooth device configured for said communicating with the Bluetooth device of the phone(para 0032-0034).

Regarding claim 4, Simon in view of Hosack teaches the apparatus of claim l, Further comprising the phone, said phone having an automatic dialer, the phone being configured to, upon said receiving the communication -activate the automatic dialer to call the phone number(para 0051-0055).

Regarding claim 5, Simon in view of Hosack teaches the apparatus of claim 4, wherein the phone is Further configured to play a pre-recorded message for the designated individual on the call when the call is answered(para 0055)

Regarding claim 6, Simon teaches a portable medical monitoring system comprising:
a portable monitoring apparatus for medically monitoring to detect an occurrence of a predefined abnormal condition(Fig.1 and para 0030-0031); and
a portable phone(B Fig.1) having an automatic dialer and configured to, upon detecting of said

occurrence by said apparatus, activate the automatic dialer to call a phone number of a phone, the phone being Further configured to play a prerecorded message for a individual on the call when the call is answered(para 0054-0055).

Simon does not expressly disclose calling a phone number belonging to a designated individual until the designated individual personally answers the call.

In the same field of endeavor, Hosack discloses multiple phone numbers, each being associated with a phone belonging to a designated individual, until one of the designated individuals personally answers the call(col.2 lines 21-25, col.5 lines 1-9, 58-67; 911 operator personally answers calls).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Simon to include multiple phone numbers, each being associated with a phone belonging to an individual as taught by Hosack.

One of ordinary skill in the art would have been motivated to do so as having multiple phone numbers to dial would provide more flexibility and options for the user. Furthermore both Simon and Hosack are in the same field of endeavor of making an emergency call based on a detected occurrence and would be easily combinable based on similar incorporated technologies(cellular network, bluetooth wireless capabilities, GPS, etc). It is noted that having multiple phone numbers to dial with an individual personally answers the call is old and very well-known in the art.

Regarding claim 7, Simon in view of Hosack teaches the system of claim 6, wherein the apparatus is configured to communicate said detecting of said occurrence automatically, wirelessly and directly to the phone(para 0030-0033).

Regarding claim 8, Simon in view of Hosack teaches the system of claim 6, wherein the monitoring is of a subject, the device being attached to the subject during the monitoring(Fig.1 and para 0030-0032).

Regarding claim 9, Simon in view of Hosack teaches the system of claim 6, wherein the phone comprises a Bluetooth device, said apparatus Further comprising a Bluetooth device configured for communicating to the Bluetooth device of the phone said detecting of said occurrence(para 0032-0034).

Regarding claim 10, Simon in view of Hosack teaches the system of claim 6, wherein the phone Further comprises a global positioning system (GPS) unit for determining a street map location of the phone, the phone being Further configured to augment the prerecorded message with said location(para 0026-0027).

Regarding claim 11, Simon in view of Hosack teaches the system of claim 6, wherein the pre-recorded message is a voice message and the playing of the message occurs on a voice channel(para 0055).

Regarding claim 12, Simon teaches the portable medical monitoring method comprising the steps of:

medically monitoring, with a portable monitoring device, to detect an occurrence of a predefined abnormal condition(Fig.1 and paragraph 0026-0027);

automatically, wirelessly and directly communicating, by a wireless transmitter attached to the device, the occurrence to a portable phone upon detection by the device of said occurrence(Fig.1 and para 0026-0027); and

making, by said phone, an emergency call upon receiving the communication by dialing phone number stored in the phone(para 0026 and 0028).

Simon does not expressly disclose multiple phone numbers, each being associated with a phone belonging to a designated individual, until one of the designated individuals personally answers the call.

In the same field of endeavor, Hosack discloses multiple phone numbers, each being associated with a phone belonging to a designated individual, until one of the designated individuals personally answers the call(col.2 lines 21-25, col.5 lines 1-9, 58-67; 911 operator personally answers calls).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Simon to include multiple phone numbers, each being associated with a phone belonging to an individual as taught by Hosack.

One of ordinary skill in the art would have been motivated to do so as having multiple phone numbers to dial would provide more flexibility and options for the user. Furthermore both Simon and Hosack are in the same field of endeavor of making an emergency call based on a detected occurrence and would be easily combinable based on similar incorporated technologies(cellular network, bluetooth wireless capabilities, GPS, etc). It is noted that having multiple phone numbers to dial with an individual personally answers the call is old and very well-known in the art.

Regarding claim 13, Simon in view of Hosack teaches the method of claim 12, wherein the call making step Further comprises the step of activating an automatic dialer in the phone to call a particular phone number (para 26-31 and para 54-55).

Regarding claim 14, Simon teaches the method of claim 12, wherein call making step comprises the step of playing, by said phone, a pre-recorded message on the call when the call is answered(para 26-31 and para 54-55).

Regarding claim 15, Simon teaches a portable medical monitoring method comprising: medically monitoring, by a portable medical monitoring apparatus, to detect an occurrence of a predefined abnormal condition(Fig.1 and para 26-31 and para 54-55).
upon detecting of said occurrence by said apparatus, activating an automatic dialer in the phone to call a phone number stored in the phone(para 26-31 and para 54-55); and
playing, by said phone, a pre-recorded message for the designated individual that answers the call on the call when the call is answered(para 0055).

Simon does not expressly disclose multiple phone numbers stored in the phone, each of the phone numbers being associated with a phone belonging to a designated individual

In the same field of endeavor, Hosack discloses multiple phone numbers stored in the phone, each of the phone numbers being associated with a phone belonging to a designated individual (col.2 lines 21-25, col.5 lines 1-9, 58-67; 911 operator personally answers calls).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Simon to include multiple phone numbers, each being associated with a phone belonging to an individual as taught by Hosack.

One of ordinary skill in the art would have been motivated to do so as having multiple phone numbers to dial would provide more flexibility and options for the user. Furthermore both Simon and Hosack are in the same field of endeavor of making an emergency call based on a detected occurrence and would be easily combinable based on similar incorporated

technologies(cellular network, bluetooth wireless capabilities, GPS, etc). It is noted that having calling multiple phone numbers stored in the phone is old and very well-known in the art.

Regarding claim 16, Simon in view of Hosack teaches the method of claim 15, Further comprising the step of automatically, wirelessly and directly communicating, by said apparatus, to the phone said detecting of said occurrence(para 26-31).

Regarding claim 17, Simon in view of Hosack teaches the method of claim 15, wherein the monitoring is of a subject, the device being attached to the subject during the monitoring(Fig.1).

Regarding claim 18, Simon teaches a portable medical monitoring apparatus comprising:
a portable monitoring device for monitoring one or more medical conditions for the occurrence of one or more predefined abnormal conditions(20 Fig.1 and para 0027);
a portable communication device for receiving a signal from the portable monitoring device that one of the predefined abnormal conditions has occurred(30 Fig.1 and para 0027-0028);
wherein the portable communication device relays the occurrence of the predefined abnormal condition to a selected emergency contact by providing a notification of the occurrence of the abnormal condition that has occurred and a location of the of the portable monitoring device(para 0029).
Simon does not expressly disclose connection to selected emergency contact individuals

In the same field of endeavor, Hosack discloses connection to selected emergency contact individuals (col.2 lines 21-25, col.5 lines 1-9, 58-67).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Simon to connect to selected emergency contact individuals as taught by

Hosack.

One of ordinary skill in the art would have been motivated to do so as having multiple emergency contact individuals phone numbers to dial would provide more flexibility and options for the user. Furthermore both Simon and Hosack are in the same field of endeavor of making an emergency call based on a detected occurrence and would be easily combinable based on similar incorporated technologies(cellular network, bluetooth wireless capabilities, GPS, etc). It is noted that having multiple phone numbers to dial with an individual personally answers the call is old and very well-known in the art.

Regarding claim 19, Simon in view of Hosack teaches the portable medical monitoring apparatus of claim 18, wherein the location is defined by a global positioning system(para 0028-0029).

Regarding claim 20, Simon in view of Hosack teaches the portable medical monitoring apparatus of claim 18, wherein selected locations can be predefined with location labels(para 0028-0029-attached GPS locator module has predefined location labels so emergency personnel can locate patient).

Regarding claim 21, Simon in view of Hosack teaches the portable medical monitoring apparatus of claim 18, wherein the emergency contact that is closest to the location is notified first(para 0028-0029-appropriate 911 personnel is closest emergency contact).

Regarding claim 22, Simon in view of Hosack teaches the portable medical monitoring apparatus of claim 18, wherein the notification comprises a telephone to the one or more emergency contacts including a selected, pre-recorded message(para 0029 and 0034).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSEPH T. PHAN whose telephone number is (571)272-7544. The examiner can normally be reached on Mon-Fri 9am-6:30pm EST, off alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessSimonl, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JOSEPH T PHAN/
Primary Examiner, Art Unit 2614